

MAR 05 2007

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Application No.: 10/798,541

Inventor(s): Michael J. Gray et al

Filed: March 11, 2004

Docket No.: 8135 / Z-03368

Confirmation No.: 6481

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1) Amended Appeal Brief

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CENTRAL FAX CENTER****MAR 05 2007****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No. : 10/798,541
Inventor(s) : Michael Gray
Filed : 03/11/2004
Art Unit : 3724
Examiner : Michalski
Docket No. : 8135 / Z-03368
Confirmation No. : 6481
Customer No. : 27752
Title : Shaving Razor With Trimming Blade

AMENDED APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

This amended appeal brief is filed in response to the Notice of Non-Compliant Appeal Brief mailed on February 16, 2007. This amended appeal brief addresses the items raised in the Notice of Non-Compliant Appeal Brief.

The original brief was filed on January 12, 2007 pursuant to the appeal from the decision communicated in the Office Action mailed on December 6, 2006.

A timely Notice of Appeal was filed on January 9, 2007.

REAL PARTY IN INTEREST

The real party in interest is The Gillette Company of Boston, MA.

RELATED APPEALS AND INTERFERENCES

There are no known related appeals, interferences, or judicial proceedings.

STATUS OF CLAIMS

Claims 2, 3 and 5- 15 are pending.

Claims 2, 3 and 5 - 15 are rejected.

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Claims 2, 3 and 5 - 15 are appealed.

Claims 1 and 4 have been cancelled.

A complete copy of the appealed claims is set forth in the Claims Appendix attached herein.

STATUS OF AMENDMENTS

No amendment was filed.

SUMMARY OF CLAIMED SUBJECT MATTER

Claim 2 of the present invention is directed to a shaving razor 10 with a housing 20 having a primary guard 22 at the front of the housing and a primary cap 24 at an upper surface of the back of the housing. This is set out on page 3, lines 15-21 of the specification and in Figure 16. One or more primary shaving blades are positioned between the primary guard 22 and primary cap 24. This is set out on page 3, lines 15-21 of the specification and in Figure 16. A trimming blade 504 is mounted at the back of the housing 20 and has a cutting edge 536 oriented away from the upper surface. This is set out on page 3, lines 20-26 and page 4, lines 11-24 of the specification and in Figure 3. An elongated handle 14 having a first end and second end with a finger pad 726 at the first end on the same side as the primary blades. This is set out on page 1, lines 24-29 of the specification and in Figures 15 and 16.

Claim 3 of the present invention is directed to the handle being bifurcated adjacent the first end into two portions 722, 724, creating a region between the two portions. The portions 722, 724, are joined at the first end to enclose the region. This is set out on page 1, lines 1-6 of the specification and in Figure 16.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether claims 2, 9, 12, 13 and 14 are anticipated under 35 USC §102(b) by Rozenkranc (US 6,276,061).
2. Whether claims 3 and 5 - 15 are unpatentable under 35 USC §103(a) over Rozenkranc in view of Gilder (US 5,533,263) or in view Bosy (6,598,303) or in view of "Platinum Mach 14".

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ARGUMENTS

1. Rejection under 35 USC §102(b) over Rozenkranc (US 6,276,061).

1. A. Claims 2, 9, 12, 13 and 14.

Rozenkranc fails to anticipate independent 2. Claim 2 recites that the finger pad is "at said first end" of the handle, i.e., the end of the handle that is secured to the housing. See, for example, the positioning of finger pad 726 in Fig. 16 of Applicant's specification. There is clearly no finger pad in this position on Rozenkranc's handle. The position on the handle of Rozenkranc that the Examiner alleges has a finger pad is approximately halfway between the first end and the second end of Rozenkranc's handle. That is, the alleged finger pad of Rozenkranc is positioned in the middle of the handle and not at the end.

To illustrate the extreme position that the Examiner has taken a comparative example is helpful. If one were to place a football on the 45 yard line of a football field one would not say that the football is placed at one end of the field. One would say that the football is placed in the middle of the field. It is true, that a football placed on the 45 yard line is closer to one end of the field than the other. However, it is not true that the football is placed at one end of the field.

The same can be said for the alleged finger pad of Rozenkranc. The finger pad is placed closer to one end of the handle versus the other. But the finger pad of Rozenkranc is positioned in the middle of the handle and not at the first end.

Thus, even if there is a finger pad in the area indicated by the Examiner, this cannot fairly be construed to be positioned "at the first end" of the handle. Rozenkranc fails to anticipate independent claim 2.

Claims 9, 12, 13 and 14 stand or fall with claim 2.

2. Rejection under 35 USC §103(a)

2. A. Claims 6 – 14

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As mentioned above in section 1. A. Rozenkranc fails to anticipate independent Claim 2. Neither Gilder, Bosy nor Platinum Mach 14 when combined either collectively or individually with Rozenkranc establish a *prima facie* case of obviousness. Neither Gilder, Bosy nor Platinum Mach 14 provide the missing elements of Rozenkranc as mentioned in section 1.A. Accordingly, claim 2 is patentable over all of these combinations. Claims 6 -14 in their dependence from independent claim 2 stand or fall with claim 2.

2. B. Claims 3, 5, 7 – 13 and 15.

Claim 3 recites that the handle be bifurcated into two portions such that there is a region between the two portions and the two portions be joined at the first end to enclose the region defined by the two portions. This is clearly not the case in the Gilder reference, which is cited to supply a teaching of the claimed bifurcated handle. The Examiner relies on a separate member from the handle, i.e., the cartridge, to join the two portions of Gilders handle. Thus, it is the handle plus the cartridge that is forming the enclosed structure of Gilder and not the handle alone as claimed. The Examiner acknowledges that Rozenkranc does not teach a bifurcated handle. Thus, neither Rozenkranc nor Gilder teaches or suggests a handle having the claimed bifurcated construction.

Accordingly, the combination of Rozenkranc and Gilder does not establish a *prima facie* case of obviousness because it does not teach or suggest all of the claim limitations of independent claim 3. As such, claim 3 is patentable over the combination of Rozenkranc and Gilder.

The combination of Rozenkranc, Gilder and Bosy does not establish a *prima facie* case of obviousness because the combination does not teach or suggest all of the claim limitations of independent claim 3. Bosy does not provide the missing elements of Rozenkranc and Gilder mentioned above. As such, claim 3 is patentable over the combination of Rozenkranc, Gilder and Bosy.

The combination of Rozenkranc, Gilder and "Platinum Mach 14" does not establish a *prima facie* case of obviousness because the combination does not teach or

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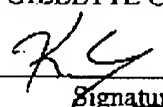
suggest all of the claim limitations of independent claim 3. "Platinum Mach 14" does not provide the missing elements of Rozenkranc and Gilder mentioned above. As such, claim 3 is patentable over the combination of Rozenkranc, Gilder and "Platinum Mach 14".

Claims 5, 7 - 13 and 15 in their dependence from independent claim 3 stand or fall with claim 3.

SUMMARY

In view of all of the above, it is respectfully submitted that the claims be allowed on appeal.

Respectfully submitted,
THE GILLETTE COMPANY



Signature

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Date: March 5, 2007

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CLAIMS APPENDIX

2. A shaving razor comprising
a housing having a primary guard at a front of said housing and a primary cap at an upper surface at a back of said housing, one or more primary shaving blades between said primary guard and said primary cap,
a trimming blade mounted at the back of said housing having a trimming blade cutting edge oriented away from said upper surface, and
an elongated handle having a first end secured to said housing,
said handle having a finger pad at said first end on the same side as said primary blades.
3. A shaving razor comprising
a housing having a primary guard at a front of said housing and a primary cap at an upper surface at a back of said housing, one or more primary shaving blades between said primary guard and said primary cap,
a trimming blade mounted at the back of said housing having a trimming blade cutting edge oriented away from said upper surface, and
an elongated handle having a first end secured to said housing,
said handle being bifurcated adjacent said first end into two portions such that there is a region between said two portions, the two portions joining at the first end to enclose the region.
5. The shaving razor of claim 3 wherein said handle has a finger pad at said first end on the same side as said primary blades.
6. The shaving razor of claim 2 wherein said handle is bifurcated at said first end into two portions such that there is a region between said two portions, the region being positioned to provide access to the finger pad.

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7. The shaving razor of claim 2 or 5 wherein said finger pad is made of elastomeric material.

8. The shaving razor of claim 2, 5 or 6 wherein said handle has relieved surfaces positioned to provide access to said finger pad.

9. The shaving razor of claim 2 or 3 wherein there are three or more said primary shaving blades.

10. The shaving razor of claim 2 or 3 wherein there are four or more said primary shaving blades.

11. The shaving razor of claim 2 or 3 wherein there are five or more said primary shaving blades.

12. The shaving razor of claim 2 or 3 wherein said housing is pivotally connected to said handle by a connection that has an at rest stop position to prevent pivoting of said housing when the trimming blade is cutting hair.

13. The shaving razor of claim 2 or 3 wherein said handle has a curve at said first end that is concave on the same side as said primary blades.

14. The shaving razor of claim 2 wherein said finger pad is generally oval in shape.

15. The shaving razor of claim 3, further comprising a finger pad positioned where said two portions join at the first end.

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EVIDENCE APPENDIX

None

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RELATED PROCEEDINGS APPENDIX

None